IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.9.2007

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.515 of 2007

C.Saravanan .. Petitioner

Vs.

1. The State of Tamil Nadu
   rep. by its Secretary
   to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

2. The Commissioner of Police
   Greater Chennai
   Chennai. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein calling for the records of the detenion made in Memo No.15/BDFGISSV/2007 dated 12.1.2007 passed by the Commissioner of Police, Greater Cehnnai, Chennai, 2nd Respondent herein and set aside the same and direct the Respondent to produce the detenue before this Court and set the detenu Thiru C.Saravanan at liberty.

For Petitioner : Mr.M.Damodharan
For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against the petitioner, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. The order of detention dated 12.1.2007 was passed on the basis of ground case in Crime No.1825 of 2006 for alleged commission of offences under Sections 341, 336, 397 and 506(2) of the Indian Penal Code. The allegation against the detenu was that on 20.12.2006, at about 2.00 p.m., when one Ravi was returning after meeting his friend, near the junction of Kumarappa Street

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and Rama Street, the detenu and two of his associates came in a motorcycle, brandished knives and threatened him to give whatever money is was having. The detenu inserted his hand into the shirt pocket of Ravi and took away Rs.350/- and his associates snatched the writ watch and gold ring from Ravi. Noticing the detenu and his associates were escaping, Ravi raised hue and cry and the public joined with him and tried to apprehend them. The detenu and his associates picked up stones from the roadside pelted the same against the public and the public ran hither and thither for safer places out of fear of danger to their lives and properties. The nearby shop keepers closed their shops. The police personnel who were at the spot surrounded and apprehended the detenu and his associates. Based on the complaint of Ravi a case, as referred to above, was registered. The detaining authority also took note of six adverse cases pending against the detenu. Considering these activities of the detenu are prejudicial to maintenance of public order, the detaining authority passed the impugned order dubbing the detenu as a "Goonda".

3. Challenging the said detention, the petitioner has filed the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records of the detention made in Memo No.15/BDFGISSV/2007, dated 12.1.2007 passed by the second respondent, to set aside the same and to direct the respondent s to produce him before this Court and to set him at liberty.

4. We have perused the materials available on record and heard the submissions of Mr.M.Damodharan, learned counsel for the petitioner and Mr.N.R.Elango, learned Additional Public Prosecutor for the respondents.

5. From a perusal of the records it is clear that even though in the request for remand dated 21.12.2006, the Inspector of Police, F3-Numbgambakkam Police Station, sought the remand of the petitioner in all the seven cases, referred therein, the petitioner was remanded only in the ground case in Crime No.1825 of 2006. That apart, the detention order dated 12.1.2007 also states that there is real possibility of the detenu coming out on bail by filing bail application, while the fact remains that there are no details available on records to show whether or not the detenu was also remanded in all other six adverse cases by independent orders of the Magistrate. Therefore, in our considered view the subjective satisfaction arrived at by the Detaining Authority is vitiated as a result of non application of mind on the part of the Detaining Authority to the above fact. On this ground the Detention Order is liable to be set aside.

The habeas corpus petition is accordingly allowed and the order of detention passed by the second respondent in proceedings dated 12.1.2007

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against the detenu is quashed and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To:

1. The Commissioner of Police
   Greater Chennai
   Chennai.

2. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

3. The Superintendent, Central Prison, Chennai.

4. The Joint Secretary to Government,
Public [Law and Order] Department,
Fort St. George, Chennai 9.

5. The Public Prosecutor
   High Court, Madras.

+ 1 CC To Mr. M.Dhamodharan, Advocate SR NO.58050

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